

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 11754 of 2004

Between:

Fishermen Cooperative Society, yacharam Village, Anumula Mandal, Nalgonda District, rep. by its President, Gudugundla Venkaiah, S/o. chandriah 40 years.

..... PETITIONER

AND

- 1 The District Collector, Nalgonda District, Nalgonda.
- 2 The Commissioner of Fisheries, Mastya Bhavan, Shantinagar, Hyderabad.
- 3 The Regional Dy. Director of Fisheries, Nalgonda district, Nalgonda.
- 4 The Asst. Director of Fisheries, Nalgonda District, Nalgonda.
- 5 The Fisheries Development Officer, Dindi Mandal, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order or direction more particularly one in the nature of writ of Mandamus, declaring the action of the respondents in not issuing the fishing order on payment of lease amount for the Fasli 1413-14 (2003-05), to the Fishermen Cooperative Society, Yacharam Village, Anumula Mandal, Nalgonda District as bad, arbitrary, contrary to the lease order and the notice of the 5th respondent vide Lr.No.3/FDO/2003-4, Dt. 17.3.2004 and also offends Arts. 14 and 21 of the Constitution of India.

Counsel for the Petitioner:MS.M.VIDYAVATHI

Counsel for the Respondents: GP FOR CO-OPERATION

The Court made the following :

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

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WRIT PETITION NO.11754 OF 2004

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ORDER:

The petitioner, which is a Fishermen Coopertive Society of Yacharam Village, filed this Writ Petition, inter alia, seeking Writ of Mandamus, as against the action of the respondents herein in not issuing the order of fishing on payment of lease amount for the Fasli 1413-14 (2003-05) to the said Society.

2. Heard Ms.M.Vidyavathi, the learned Counsel for the petitioner, and the learned Government Pleader.

3. The case of the petitioner in brief is that the society was registered on 18-09-2000 with registration No.770/9FC/2000 with 37 members, which consisting of persons from downtrodden community belonging to S.C. and B.C. The said society is existing with Yacharam Pedda Cheruvu at Yacharam Village with an area of Acs.244 (97 hectares). Since the inception, the petitioner society has been getting the lease hold rights and by fishing all the members are eking out their livelihood. In the elections conducted on 22-12-2001, the committee was constituted and the same has been functioning without any complaint. The respondent No.4 herein has granted the lease to the petitioner for a period of 3 years as per the proceedings dated 17-03-2004 and fixing the upset price. The petitioner had paid the lease amount for the fasli 1413 (2003-2004). Now, the fish and prawn are ready for harvesting. The power brokers with the ruling government have been creating problems and trying to influence the respondents to see that the orders has not been issued. The saidd society is ready to pay the lease amount for the year 2004-2005, since the said year commences from 01-07-2004. In view of the notice issued to the petitioner on 17-03-2004, the lease amount for the year 2003-2005 was also paid and yet no fishing orders have been issued. Hence, the Writ Petition.

4. In the counter-affidavit filed by the 3rd respondent on behalf of the respondents herein it is stated that there is no dispute in regard to the grant of lease in favour of the petitioner and also making the payments towards the lease amount. However, having regard to the law and order problem arising in the village due to dispute between the villagers and the members of the society, an enquiry has to be conducted as per the directions given by the District Collector, Nalgonda dated 20-06-2004 and in enquiry conducted on 29-06-2004, it was revealed that earlier the tank of Yacharam was in the area of Fishermen Cooperative Society, Marepally Village and the said Society used to pay 50% share to the villagers of Yacharam and therefore the villagers are demanding similar such 50%, which being refused by the petitioner. Further, it has been found that the society consists of more S.C. members and the remaining are B.C. community excluding Mudiraj community, who are mainly depending on fishing activity, and most of the existing members of the society also does not know the fishing activity. Therefore, there is demand now for cancellation of the very society itself and reconstitute the same by including all the communities. In view of the same, it was felt necessary that the society has to be cancelled in accordance with the demand of the local people and for conducting open auction by the Government or Fisheries Department and by tenders system. There is also a dispute regarding the tank of pedda cheruvu and therefore the petitioner cannot seek any indulgence at this stage. Thus, the main submission made in the counter-affidavit is that the aforesaid issue is creating law and order problem and some genuine fishermen community members are ignored in giving membership. Hence, they sought dismissal of the Writ Petition.

5. Considering the submissions made and also on perusal of the material it is seen that there is no dispute in regard to either of the registration of the society and its existence. Further there is also no dispute in regard to the grant of lease in favour of the petitioner society and making the payments towards the lease amount. However, as pointed out in the counter-affidavit, there are some serious disputes even in regard to the members vis-à-vis the another society, which is also trying to claim very same tank and further there is a serious law and order problem in the village from the local people. Be that as it may, the fact remains that as long as the lease has been granted in favour of the petitioner herein the same cannot be stopped or otherwise interdicted, but however, taking into consideration the reasons as shown, it is always open for the respondents herein to take appropriate action in accordance

with law either to cancel the lease or to take such other steps in the exigency of the circumstances. As long as that is not done, the complaint of the petitioner herein is very well justified and they cannot be denied the fishing rights.

6. In the circumstances, the Writ Petition is, accordingly, disposed of directing the respondents herein to give the necessary orders for fishing to the petitioner, unless and until any action is taken in regard to the cancellation of the lease by giving due notice and opportunity to the petitioner. It shall be open for the respondents herein to take such appropriate action in the exigency of the circumstances and pass orders in accordance with law. No costs.

B.PRAKASH RAO, J.

Dated 16-08-2004.

Skmr

To

- 1 The District Collector, Nalgonda District, Nalgonda.
- 2 The Commissioner of Fisheries, Mastya Bhavan, Shantinagar, Hyderabad..
- 3 The Regional Dy. Director of Fisheries, Nalgonda district, Nalgonda.
- 4 The Asst. Director of Fisheries, Nalgonda District, Nalgonda.
- 5 The Fisheries Development Officer, Dindi Mandal, Nalgonda District.

6. 2CCs to G.P. for Cooperation, High Court of A.P.,
Hyderabad(OUT).

7. 2CD copies